

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY AND)	
LOUISVILLE GAS AND ELECTRIC COMPANY)	
FOR CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY AND SITE)	2022-00402
COMPATIBILITY CERTIFICATES AND)	
APPROVAL OF A DEMAND SIDE MANAGEMENT)	
PLAN)	

ORDER

This matter arises upon the motion of the Sierra Club, filed January 19, 2023, for full intervention. As a basis for its motion, Sierra Club stated that it has a special interest that is not otherwise adequately represented because no other intervenor in this proceeding advocates against continued investment in fossil fuel resources as a matter of institutional policy. Further, Sierra Club argued that is likely to present issues or develop facts that will assist the Commission in fully considering this matter without unduly complicating the proceedings. Louisville Gas & Electric Company and Kentucky Utilities Company (LG&E/KU) have not filed a response opposing Sierra Club's motion to intervene.

BACKGROUND

Sierra Club stated that it has approximately 3.5 million members nationwide with more than 5,500 members belonging to its Kentucky chapter, many of whom receive service from LG&E/KU, although Sierra Club failed to identify a specific ratepayer receiving service from LG&E/KU. Sierra Club argued that its members have direct

economic and environmental interests in this proceeding because LG&E/KU proposes to build two new natural gas combined cycle (NGCC) facilities at a combined cost of more than \$1.36 billion.¹ Sierra Club asserted that it would advocate for clean energy alternatives as a potential least-cost option for LG&E/KU's customers in this case in contrast to the proposals advanced by LG&E/KU, which includes a mix of new fossil fuel facilities, solar generation, and a new battery storage facility.

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). The Attorney General filed a motion to intervene on November 21, 2022, and the Commission granted the Attorney General's motion to intervene on November 30, 2022. Intervention by all others is permissive and is within the sole discretion of the Commission.²

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001E, Section 4, is twofold. Commission regulation 807 KAR 5:001E, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

¹ Sierra Club's Motion to Intervene (filed Jan. 19, 2023) at 3.

² *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Sierra Club is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

Sierra Club has demonstrated, among other things, that it has direct experience participating in prior Commission proceedings involving LG&E/KU as well as other utilities. In past Commission proceedings, Sierra Club has filed comments, propounded discovery, and participated with counsel at hearings. In fact, Sierra Club intervened and participated without complication in LG&E/KU's most recent Integrated Resource Plan case, which dealt with a number of issues likely to arise in this case.³ Further, Sierra Club asserted in its motion that it has knowledge of the Environmental Protection Agency's Good Neighbor Plan, which is, in part, the basis for LG&E/KU's proposed NGCC units and the broader plan at issue in this matter. Thus, the Commission finds that Sierra Club is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings.

Based on the above, the Commission finds that Sierra Club should be granted full rights of a party in this proceeding.⁴ The Commission directs Sierra Club to the

³ See Case No. 2021-00393, *Electronic 2021 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Jan. 11, 2022.)

⁴ The Commission makes no finding as to whether or not Sierra Club has a special interest.

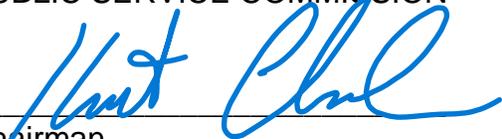
Commission's July 22, 2021 Order in Case No. 2020-00085⁵ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

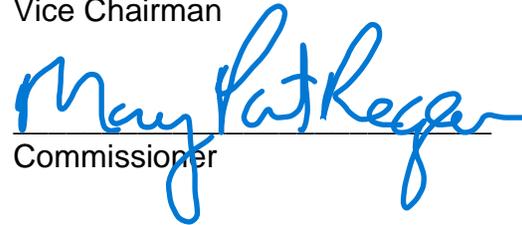
1. Sierra Club's motion to intervene is granted.
2. Sierra Club is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Sierra Club shall comply with all provisions of the Commission's regulations, 807 KAR 5:001E, Section 8, related to the service and electronic filing of documents.
4. Sierra Club shall adhere to the procedural schedule set forth in the Commission's January 6, 2023 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of service of this Order, Sierra Club shall file a written statement with the Commission that:
 - a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and
 - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

⁵ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

PUBLIC SERVICE COMMISSION


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Commissioner



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